

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

No. 1:79-cv-988-LJV

-v-

HOOKER CHEMICAL CORP., et al.,

Defendants.

STATUS REPORT

Plaintiff United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), responds to the Court’s September 30, 2022 order requesting that the parties submit a status report by December 31, 2022, to inform the Court as to whether this case should remain open. *See* ECF No. 366. After the Court issued its September 30, 2022 order, the attorney who was then representing the United States retired. A replacement was not assigned until well into 2023. The United States apologizes to the Court for the untimeliness of this submission.

The United States conferred with counsel for defendant Occidental Chemical Corp. (“Occidental”) and with the New York State Department of Environmental Conservation (“NYDEC”). The United States, Occidental, and NYDEC agree that this case should be closed. The Site’s cleanup is currently ongoing, under the oversight of EPA and NYDEC, without the need for judicial involvement.

Large Superfund sites, such as the one at issue here, often take decades to be fully remediated, and even then, EPA and state regulatory counterparts often continue to monitor the site (sometimes indefinitely) to ensure that it does not pose risk to human health and the

environment. As a result, because unforeseen problems may arise as remediation progresses, Superfund sites from a regulatory standpoint do not “close” in the ordinary sense of the word. Although the United States agrees that this judicial case, for all practical purposes, can be closed, the United States requests that the Court retain jurisdiction to the extent the United States and State ever need to return to the Court to enforce any particular aspect of the parties’ settlement agreement and order entered in this case on April 15, 1985, and the related Stipulation on Requisite Remedial Technology Program that the Court approved and ordered on April 12, 1991.

Respectfully submitted,

For Plaintiff United States of America

ELLEN MAHAN
Deputy Section Chief
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section

Dated: July 26, 2023

/s/ Patrick B. Bryan
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CERTIFICATE OF SERVICE

I certify that on July 26, 2023, I electronically filed the foregoing Status Report and that it is available for viewing and downloading from the Court's CM/ECF system, and that the participants in the case that are registered CM/ECF users will be served electronically by the CM/ECF system. I further certify that I caused a copy of the foregoing Status Report to be sent by U.S. Mail on the persons listed below:

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